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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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11 NORMAN G. DANIELS,

12 Plaintiff,

13 v.

14 BAER, et al.,

15 Defendants.

16 1:19-cv-01801-AWI-GSA-PC

17 **ORDER DENYING PLAINTIFF'S MOTION**
FOR RECONSIDERATION AS MOOT
(ECF No. 50.)

18 **ORDER DEEMING PLAINTIFF'S SECOND**
AMENDED COMPLAINT TIMELY FILED
(ECF No. 51.)

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22 **I. BACKGROUND**

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24 Norman G. Daniels (“Plaintiff”) is a state prisoner proceeding *pro se* with this civil rights
25 action pursuant to 42 U.S.C. § 1983. On December 23, 2019, Plaintiff filed the Complaint
26 commencing this action. (ECF No. 1.)

27 On March 2, 2022, Plaintiff filed a motion for reconsideration of the court’s order issued
28 on February 22, 2022. (ECF No. 51.)

1 **II. MOTION FOR RECONSIDERATION**

2 Rule 60(b) allows the Court to relieve a party from an order for “(1) mistake,
3 inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable
4 diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3)
5 fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an
6 opposing party; (4) the judgment is void; or (6) any other reason that justifies relief.” Fed. R.
7 Civ. P. 60(b). Rule 60(b)(6) “is to be used sparingly as an equitable remedy to prevent manifest
8 injustice and is to be utilized only where extraordinary circumstances . . .” exist. Harvest v.
9 Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotations marks and citation omitted). The
10 moving party “must demonstrate both injury and circumstances beyond his control . . .” Id.
11 (internal quotation marks and citation omitted). In seeking reconsideration of an order, Local
12 Rule 230(k) requires Plaintiff to show “what new or different facts or circumstances are claimed
13 to exist which did not exist or were not shown upon such prior motion, or what other grounds
14 exist for the motion.”

15 Here, Plaintiff objects to the court’s decision to deny Plaintiff’s motion for extension of
16 time to file the Second Amended Complaint. On February 18, 2022, Plaintiff filed a motion for
17 extension of time to file the Second Amended Complaint. (ECF No. 48.) On February 22, 2022,
18 the court issued an order denying Plaintiff an extension of time and advising him that the deadline
19 to file the Second Amended Complaint was February 28, 2022. (ECF No. 49.)

20 Plaintiff argues that he needs an extension of time because he is legally blind, lacks
21 sufficient access to the law library, and needs assistance to prepare his filings. However, on
22 March 4, 2022, Plaintiff filed the Second Amended Complaint. (ECF No. 51.) Because of this
23 filing, Plaintiff’s motion for reconsideration is moot. In this circumstance the court shall deny
24 Plaintiff’s motion and deem the Second Amended Complaint timely filed.

25 **III. CONCLUSION**

26 Based on the foregoing, IT IS HEREBY ORDERED that:

27 1. Plaintiff’s motion for reconsideration, filed on March 2, 2022, is denied as moot;

1 2. Plaintiff's Second Amended Complaint, filed on March 3, 2022, is deemed timely
2 filed; and
3 3. The Second Amended Complaint shall be screened in due course.

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5 IT IS SO ORDERED.
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7 Dated: March 8, 2022

8 /s/ Gary S. Austin

9 UNITED STATES MAGISTRATE JUDGE

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